




Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

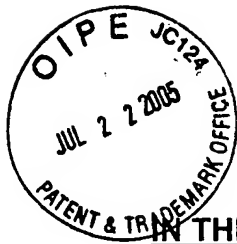
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) D/AQA47 XERZ 2 00422																	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] Express Mail Label No. EV 702956226 US on <u>July 22, 2005</u> Signature _____ Typed or printed name <u>Kathleen A. Nimrichter</u>	Application Number <u>10/007,358</u>	Filed <u>November 5, 2001</u>																	
	First Named Inventor <u>Jesus S. Ortega et al.</u>																		
	Art Unit <u>2173</u>	Examiner <u>Ting Zhou</u>																	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table border="0"><tr><td><input type="checkbox"/> applicant/inventor.</td><td rowspan="3"> _____ Signature <u>Mark S. Svat</u> _____ Typed or printed name</td></tr><tr><td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td></tr><tr><td><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>34,261</u></td></tr><tr><td><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____</td><td colspan="3"><u>(216) 861-5582</u> _____ Telephone number <u>7/22/05</u> _____ Date</td></tr><tr><td colspan="4">NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</td></tr><tr><td colspan="4"><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</td></tr></table>				<input type="checkbox"/> applicant/inventor.	 _____ Signature <u>Mark S. Svat</u> _____ Typed or printed name	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>34,261</u>	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	<u>(216) 861-5582</u> _____ Telephone number <u>7/22/05</u> _____ Date			NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.				<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF	:	Jesus S. Ortega, et al.
FOR	:	INSTRUCTION GENERATING SYSTEM AND PROCESS VIA SYMBOLIC REPRESENTATIONS
SERIAL NO.	:	10/007,358
FILED	:	November 5, 2001
GROUP ART UNIT	:	2173
CONFIRMATION NO.	:	3572
EXAMINER	:	Zhou, Ting
LAST OFFICE ACTION	:	February 22, 2005
ATTORNEY DOCKET NO.	:	D/A0A47 XERZ 2 00422

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Remarks

Applicants respectfully submit the cited Baker reference (U.S. Application No. 2004/0163544 A1) which was used as the primary reference in rejecting claims 1-9 of the present application, and the only reference cited against claims 1-4 and 6, has been misunderstood by the Patent Office.

In brief, Applicants respectfully submit the cited Baker reference to be entirely inappropriate.

The present application discloses and claims a system and method for generating pictographic instructions understood by a user following the instructions,

regardless of the user's language. This feature is recited in each of the independent claims 1, 6, and 7. On the other hand, the cited Baker reference discloses concepts directed to a user inputting instructions to a PDA type of device for the PDA to act upon (Abstract). Baker does not teach generating an instruction understandable by the person following the instruction, irrespective of the written language understood by the person—as recited in the claims of the present application. Rather, Baker teaches that it is a user who works to generate an input instruction to be understood and performed by the PDA or computing system.

Further, there is no teaching or suggestion in Baker that a user can understand the symbols regardless of the user's language. For example, on page 15, paragraph 150, Baker discusses the calculator symbol 22a of Figure 1, among other symbols 22b-22f, but each symbol is associated with an English subtitle, thereby indicating a possibility that the user may not understand the symbol. Even the “stop” symbol discussed on page 4, paragraph 40, and shown in Figure 2, contains the English word “stop” to clarify its meaning. There is no suggestion that the stop sign is universally understood by users that only understand non-English languages. But again, as pointed out above, it is not the user performing the indicated instructions as taught by the present application, but instead, as taught by the reference, the computing device.

Applicants requested a telephone conference on two occasions to discuss the inappropriateness of the cited art, and what Applicants believe to be a lack of response to Applicant's arguments. Both requests were denied in view of the application being in an After Final status. Applicants, therefore, filed a second response re-submitting the arguments which they believed were not responded to, and asked for a reconsideration of the application because the general statements made in the Advisory Action mailed June 10, 2005 did not meet the requirement that

a specific response be provided. However, another Advisory Action rejecting all remaining claims was mailed on July 21, 2005, but not yet received as of this date.

Thus, in a first response to the Office Action mailed February 22, 2005, Applicants requested a showing of a disclosure in the cited references that, e.g., the symbols taught by Baker, and referred to by the Examiner in paragraph 2 of the most recent Office Action, represent instructions to be followed by a person who understands the instructions irrespective of the written language understood by the person. No response to this request was provided in the Advisory Action mailed June 10, 2005. Applicants respectfully submit there has been no showing of the essential elements needed for a prima facie rejection of the independent claims 1, 6, and 7.

Applicants respectfully further submit, with reference to claims 1 and 6, that there has been no showing in any of the cited references a teaching corresponding to the limitation included in each of claims 1 and 6 that selected ones of the action glyphs, material glyphs and instrumentation glyphs are arranged in relationship to each other in accordance with a predetermined structure to form a specific instruction understandable by the person following the instruction irrespective of the written language understood by the person.

Further, with reference now to dependent claim 3, it has been argued in the Office Actions that Baker teaches the user creating a command sequence using the symbols "new" representing an action symbol, "all" representing a material symbol, and "file cabinet" representing an instrument symbol. Applicants respectfully submit that "new" does not represent an action, and that the referenced Figures 8c and 8d do not clearly show a glyph representing either "new" or "all." Further, a dictionary definition of "material" was provided in the Office Action mailed February 22, 2005,



and the word "all" does not conform to any of the meanings provided by the Merriam-Webster definition.

For at least the above-stated reasons, Applicants respectfully request a pre-appeal review for the reasons set forth above.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH, & McKEE/LLP

7/22/05
Date

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Under 37 C.F.R. § 1.8, I certify that this Pre-Appeal Brief Request for Review and accompanying document(s) are being

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Express Mail Label No. EV 702956226 US

Signature

Kathleen A. Nimrichter

Date

July 22, 2005

Printed Name

Kathleen A. Nimrichter